

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

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| Metrocall, Inc., |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | File No. EB-01-MD-008 |
| |) | |
| Concord Telephone Co., |) | |
| |) | |
| Defendant. |) | |

ORDER

Adopted: May 10, 2002

Released: May 14, 2002

By the Deputy Chief, Market Disputes Resolution Division, Enforcement Bureau:

1. On February 8, 2002, the Enforcement Bureau released a Memorandum Opinion and Order resolving liability issues in this proceeding.¹ Defendant Concord Telephone Company (“Concord”) filed an Application for Review of the Liability Order on March 11, 2002.² Under the Commission’s rules, complainant Metrocall, Inc.’s (“Metrocall”) opposition to Concord’s Application for Review was due March 26, 2002.³

2. On March 26, 2002, Metrocall filed its first Consent Motion for Extension of Time.⁴ Metrocall requested a brief extension of time, up to and including April 5, 2002, to file its opposition to Concord’s Application for Review. Metrocall represented that the parties were involved in settlement discussions and that the possibility of settlement would be reduced if Metrocall were required to file its opposition at that time.⁵ Further, Metrocall represented that Concord had consented to Metrocall’s requested extension.⁶ Accordingly, for the reasons stated in the consent motion, we granted the requested extension.

¹ *Metrocall, Inc. v. Concord Telephone Co.*, DA 02-301 (Enf. Bur., rel. Feb. 8, 2002) (“Liability Order”).

² Concord Telephone Co. Application for Review, File No. EB-01-MD-008 (filed Mar. 11, 2002).

³ *See* 47 C.F.R. § 1.115(d).

⁴ Metrocall, Inc. Consent Motion for Extension of Time, File No. EB-01-MD-008 (filed Mar. 26, 2002).

⁵ *Id.* at 2.

⁶ *Id.*

3. On April 5, 2002, Metrocall filed a second Consent Motion for Extension of Time.⁷ Metrocall requested a brief extension, up to and including April 12, 2002, to file its opposition to Concord's Application for Review.⁸ Metrocall again represented that the extension would help facilitate ongoing settlement discussions and that Concord had consented to the requested extension.⁹

4. On April 9, 2002, Metrocall filed a Consent Motion for Extension of Time,¹⁰ requesting a brief extension of time, up to and including April 22, 2002, to file a supplemental complaint for damages. Pursuant to section 1.722(e) of the Commission's rules,¹¹ Metrocall's supplemental complaint for damages was due sixty days after release of the Liability Order, or April 9, 2002. Metrocall reported in its consent motion that the parties had reached a tentative agreement to settle their dispute and, thus, the extension would conserve the parties' and the Commission's resources and would help facilitate conclusion of the settlement.¹² Further, Metrocall represented that Concord consented to the requested extension.¹³

5. On April 12, 2002, Metrocall filed another Consent Motion for Extension of Time.¹⁴ Metrocall requested another brief extension of time, up to and including April 22, 2002, to file its opposition to Concord's Application for Review. Metrocall noted that the Commission had not yet ruled on its April 12 Consent Motion for Extension of Time.¹⁵ Metrocall further reported on the parties' progress towards settlement and that Concord had consented to its latest requested extension of time.¹⁶ In an order released April 17, 2002, we granted Metrocall's April 5 and April 12 Consent Motions for Extension of Time to file its Opposition to Concord's Application for Review and Metrocall's April 9 Consent Motion for Extension of Time to file its Supplemental Complaint for Damages.¹⁷

6. On April 19, 2002, Metrocall filed another Consent Motion for Extension of Time. Metrocall requested an extension, up to May 2, 2002, to file its Opposition to Concord's

⁷ Metrocall, Inc. Consent Motion for Extension of Time, File No. EB-01-MD-008 (filed Apr. 5, 2002).

⁸ *Id.* at 2.

⁹ *Id.*

¹⁰ Metrocall, Inc. Consent Motion for Extension of Time, File No. EB-01-MD-008 (filed Apr. 9, 2002) ("April 9 Motion").

¹¹ 47 C.F.R. § 1.722(e).

¹² April 9 Motion at 2.

¹³ *Id.*

¹⁴ Metrocall, Inc. Consent Motion for Extension of Time, File No. EB-01-MD-008 (filed Apr. 15, 2002).

¹⁵ *Id.* at 2.

¹⁶ *Id.*

¹⁷ *Metrocall, Inc. v. Concord Telephone Co.*, DA 02-301 (Enf. Bur., rel. Apr. 17, 2002).

Application for Review and its Supplemental Complaint for Damages.¹⁸ Metrocall represented that the extension was necessary to allow the parties to reach agreement on the terms of their settlement agreement.¹⁹ On May 2, 2002, Metrocall filed a further Consent Motion for Extension of Time seeking an extension until May 8, 2002, to file the two documents identified above.²⁰ Finally, on May 8, 2002, Metrocall filed its most recent Consent Motion for Extension of Time, seeking an extension until May 21, 2002, to file the subject documents.²¹ In both its May 2 and May 8 motions, Metrocall represented that it needed additional time to finalize its settlement agreement with Concord.

7. Thus, currently pending are Metrocall's April 19, May 2, and May 8 Consent Motions for Extension of Time to file an Opposition to Concord's Application for Review and a Supplemental Complaint for Damages. We are satisfied that granting Metrocall's three pending consent motions will serve the public interest by promoting the private resolution of disputes and by postponing the need for further litigation and expenditure of further time and resources of the parties and of this Commission until such time as may actually be necessary.

8. Accordingly, IT IS ORDERED, pursuant to sections 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 208, and sections 1.115 and 1.722 of the Commission's rules, 47 C.F.R. §§ 1.115, 1.722, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that Metrocall's Consent Motions for Extension of Time, filed on April 19, May 2, and May 8, 2002, ARE GRANTED.

9. IT IS FURTHER ORDERED that, unless otherwise extended by order, the deadlines for Metrocall to file its opposition to Concord's Application for Review under section 1.115 of the Commission's rules, 47 C.F.R. § 1.115, and to file a supplemental complaint for damages under section 1.722 of the Commission's rules, 47 C.F.R. § 1.722, are extended to May 21, 2002.

FEDERAL COMMUNICATIONS COMMISSION

Radhika V. Karmarkar
Deputy Chief, Market Disputes Resolution Division
Enforcement Bureau

¹⁸ Metrocall, Inc. Consent Motion for Extension of Time, File No. EB-01-MD-008 (filed Apr. 19, 2002).

¹⁹ *Id.* at 2.

²⁰ Metrocall, Inc. Consent Motion for Extension of Time, File No. EB-01-MD-008 (filed May 2, 2002).

²¹ Metrocall, Inc. Consent Motion for Extension of Time, File No. EB-01-MD-008 (filed May 8, 2002).